

Influence of Television on Children, reported in her study for the Surgeon General's Advisory Committee on Television and Social Behavior, that over a nine-week period, groups of four-year-old children who were shown cartoons containing violence (Batman and Superman) "were subsequently more likely to hit other children, call people names, fail to obey classroom rules, and become impatient when they encountered minor frustrations," than two other groups of children that were shown either non-violent programs or "pro-social" programs emphasizing non-violent ways to resolve conflicts.³⁶

21. Naturalistic studies on the relationship between viewing television violence and aggression in natural environments support the conclusions drawn from laboratory experiments and field studies.³⁷ Researchers have also conducted longitudinal studies, which track the relationship between viewing violence and aggression over time, that indicate a significant correlation.³⁸ The results of longitudinal research suggest, according to Huesmann and Miller, "[T]he effect of television violence viewing on

³⁶Hearings on S. 844 Before the Subcomm. on the Const. of the Senate Judiciary Comm., 100th Cong., Sess. 1, 976. (testimony of Aletha C. Houston, Ph.D. June 25, 1987).

³⁷See, e.g., L.D. Eron, Relationship of TV Viewing Habits and Aggressive Behavior in Children, 67 J. Abnormal & Soc. Psych. 253-63 (1963); Huesmann, et al., Stability of Aggression over Time and Generations, 20 Developmental Psych. 1120-34 (1984).

³⁸See, e.g., L.D. Eron, Parent-Child Interaction, Television Violence, and Aggression of Children, 37 Am. Psychologist 197-211 (1982); L.D. Eron, et al., Does Television Violence Cause Aggression?, 27 Am. Psychologist 253-63 (1972).

aggression is relatively independent of other likely influences and of a magnitude great enough to account for socially important differences."³⁹

22. Several noteworthy and conclusive studies warrant particular attention. In a 22-year prospective study of an age cohort in a semi-rural American county (875 individuals), Huesmann and Eron considered whether the television viewing of eight-year-old boys predicted the seriousness of criminal acts they committed by age 30. The results indicated that, even after controlling for the boys' baseline aggressiveness, intelligence, and socioeconomic status at age eight, the boys' television violence viewing at age eight correlated significantly with the seriousness of the crimes for which they were convicted by age 30. The study found that childhood television viewing patterns were a better predictor of later aggression than social class, parent's behavior, child rearing practices, and many other measured variables included in the study.⁴⁰

23. Huesmann and Eron's findings are consistent with the results of short-term studies. In 1991 Wood, Wong and Chachere analyzed previous short-term studies on television violence and aggression. They concluded that the studies indicated that exposure to media violence caused, on the

³⁹L.R. Huesmann & L.S. Miller, Long-Term Effects of Repeated Exposure to Media Violence in Childhood (manuscript to appear in 3 Public Communication and Behavior (G. Comstock ed. 1992)).

⁴⁰L.R. Huesmann, L.D. Eron, M.M. Lefkowitz & L.O. Walder, Stability of Aggression over Time and Generations, 20 Develop. Psych. 1120-1134 (1984).

average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.⁴¹ Similarly, in 1990 Comstock and Paik analyzed the results of over 1000 comparisons derived from 185 different experiments, static field studies, and longitudinal studies using the most advanced methods of statistical meta-analysis. They concluded, "The data of the past decade and a half strengthens rather than weakens the case that television violence increases aggressive and antisocial behavior."⁴²

24. In 1973 Joy, et al., conducted a study of a small Canadian town, Notel, that was acquiring television for the first time due to prior problems with signal reception. The researchers used as control groups children from two similar communities that already had television. Forty five first- and second-grade students were observed over two years and objectively measured for rates of physical aggression. Rates of physical aggression did not change significantly among children in the two control communities. However, rates of physical aggression among children in Notel increased by 160%. The study concludes:

To summarize, there was a significant increase in the aggressive behavior of Notel children

⁴¹W. Wood, F.Y. Wong & J.G. Chachere, Effects of Media Violence on Viewers' Aggression in Unconstrained Social Interaction, 109 Psych. Bulletin 371-83 (1984).

⁴²G.A. Comstock & H. Paik, The Effects of Television Violence on Aggressive Behavior - A Meta-Analysis in Nat'l Research Council, A Preliminary Report to the National Research Council on the Understanding and Control of Violent Behavior at 54 (1991).

following the inception of television in their communities. This increase occurred for both physical and verbal aggressive behavior; it occurred for both boys and girls; it occurred at more than one age level; it occurred for children who were initially low in aggressive behavior as well as those who were initially high in aggressive behavior.⁴³

25. To evaluate whether exposure to television violence is a cause of societal violence, Centerwall compared the homicide rates of the United States and Canada to that of South Africa, where an affluent, Westernized white population remained without television until 1975.⁴⁴ Noting that blacks in South Africa live under quite different conditions than blacks in the United States, Centerwall limited the comparison to white homicide rates in South Africa and the U.S., and the total homicide rate in Canada (which was 97% white in 1956).⁴⁵

26. Centerwall's findings show that homicide rates among white Americans nearly doubled between the introduction of television in the 1950's and 1975.⁴⁶ The biggest surge came after 1965, just as the first television generation reached adolescence.⁴⁷ Centerwall found that age distribution, urbanization, economic conditions, alcohol consumption, capital punishment, civil unrest, and the availability of firearms could not account for the

⁴³L.A. Joy, M.M. Kimball, & M.L. Zabrack, Television and Children's Aggressive Behavior in The Impact of Television: A Natural Experiment in Three Communities 334 (T.M. Williams ed. 1986).

⁴⁴B. Centerwall, Television and Violence: The Scale of the Problem and Where We Go From Here, 267 J. Am. Med. Ass'n 3059-3063 (1992).

⁴⁵Id. at 3060.

⁴⁶Id. at 3061.

⁴⁷Id.

increase.⁴⁸ Also, the increase could not be explained by the United State's unique experiences with the Vietnam War and the U.S. civil rights struggle because Canada's upward homicide trend mirrored that of the United States.⁴⁹ In the case of South Africa, the homicide figures remained flat for the years the country was without television, between 1950 and 1975.⁵⁰ But in 1987, the first South African television generation had come of age, and South Africa's homicide rate had more than doubled in twelve years.⁵¹ In both Canada and the U.S., homicide rates among whites remained relatively stable between 1974 and 1987.⁵² Centerwall concludes, "[I]f, hypothetically, television technology had never been developed, there would today be 10,000 fewer homicides each year in the United States, 70,000 fewer rapes, and 700,000 fewer injurious assaults."⁵³

27. Eron and Huesmann, summarizing the evidence in an article published in 1987, conclude,

We believe that it has been demonstrated conclusively both by us and by others that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country.

⁴⁸Id.

⁴⁹Id.

⁵⁰Id.

⁵¹Id.

⁵²Id.

⁵³Id.

We have demonstrated that children in at least four other countries, Finland, Poland, Israel, and Australia, countries with different political and economic systems and varying in degree of control over television programming, also are affected in their aggressive behavior by the violence they observe on television.⁵⁴

28. In March of 1992, Dr. Leonard D. Eron gave testimony before the Senate Committee on Governmental Affairs on the subject of Youth Violence Prevention. Speaking on behalf of the American Psychological Association, Dr. Eron's testimony was unequivocal:

There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socio-economic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country. The fact that we get this same finding of a relation between television violence and aggression in study after study, in one country after another, cannot be ignored. The causal effect of television violence on aggression, even though it is not very large, exists. It cannot be denied or explained away. We have demonstrated this causal effect outside the laboratory in real-life among many different children. We have come to believe that a vicious cycle in which television makes children more aggressive and these more aggressive children turn to watching more violence to justify their own behaviors. Statistically this means the effect is bidirectional. Practically it means that if media violence is reduced, the level of interpersonal aggression in our society will be reduced eventually.⁵⁵

29. Recently, particular concern has developed over

⁵⁴L.D. Eron, & L.R. Huesmann, Television as a Source of Maltreatment of Children, 16 School Psych. R., 200 (1987).

⁵⁵Youth Violence Prevention: Hearings Before the Senate Comm. on Governmental Affairs (testimony of Leonard D. Eron Mar. 31, 1992).

the depiction of sexual violence on television. It is apparent that much television violence is of a sexual nature; indeed, a 1992 content analysis of recently released Hollywood films, many of which quickly find their way to television, reveals that one out of eight films depicts at least one rape.⁵⁶ Several researchers have shown that, after having been exposed to violent scenes of a sexual nature, some males become sexually aroused, commiserate less with victims of rape, and increase their laboratory aggression against women.⁵⁷ Research has also indicated that these arousal and attitude patterns may have a relationship to actual real-world aggression toward women.⁵⁸ As Donnerstein, Slaby, and Eron conclude:

The studies on the effects of sexual violence on older youth (17-22) have found several antisocial effects. The research consistently indicates that exposure to violence against women that is either juxtaposed with mildly erotic scenes (slasher films) or is sexually nonexplicit (but contains rape scenes) results in callousness towards female victims of violence, especially rape. If anything, we might expect even stronger effects of such content on younger viewers who may lack the

⁵⁶B. Wilson, D. Linz, and E. Donnerstein, The Impact of Social Issue Television Programming on Attitudes toward Rape, Human Communications Research (in press).

⁵⁷See, e.g., E. Donnerstein, D. Linz, S. Penrod, The Question of Pornography: Research Findings and Policy Implications. (1987); D. Linz, Exposure to Sexually Explicit Materials and Attitudes toward Rape: A Comparison of Study Results, Journal of Sex Research, 26, 51-84, (1990) N. Malamuth and E. Donnerstein, The Effects of Aggressive-Pornographic Stimuli, In Berkowitz (ed.) Advances in Experimental Social Psychology, vol. 15, (1982); Linz, Donnerstein and Penrod, The Effects of Multiple Exposures to Filmed Violence Against Women, J. of Communications, 34, 130-147, (1984); N. Malamuth and J. Briere, Sexual Violence in the Media: Indirect Effects on Aggression Against Women, J. of Social Issues, 42, 75-92, (1986).

⁵⁸N. Malamuth, Predictors of Naturalistic Sexual Aggression, J. of Personality and Social Psychology, 50, 953-962 (1986)

necessary critical viewing skills and the experience to discount these portrayals. It is not unreasonable to assume that a young adolescent's first exposure to sex will come in the form of a mildly erotic, but violent scene from a rented video or a late-night cable movie. To a young adolescent who is searching for information about relationships, sexual violence in popular films may be a potent source of influence on initial attitudes towards sexuality.⁵⁹

30. Research also indicates that television violence may have other serious deleterious effects on some viewers. The results of two surveys of young male felons convicted and imprisoned for committing violent crimes including homicide, rape, and assault indicate that 22% to 34% of the felons reported having consciously imitated criminal methods learned from television. Indeed, "the more violent youthful offenders tended to report that such programs had modified the techniques of their criminal activities more than did the less violent."⁶⁰

31. Over the years, there have been a limited number of individuals who have published findings that run contrary to the overwhelming scientific support for the causal link between television violence viewing and increased aggressiveness. Although several of these reports were funded by the television industry, they continue to be cited by some observers as proof of continuing disagreement and uncertainty in the scientific community over the effects of television violence. One frequently mentioned report

⁵⁹Donnerstein, Slaby, and Eron. (1992 American Psychological Association's Commission on Youth and Violence, Media Section manuscript).

⁶⁰M.S. Heller & S. Polsky, Studies in Violence and Television 94, 129 (1976).

published by Freedman in 1984 is worthy of particular scrutiny. While Freedman did concede, "It seems clear that . . . viewing violent material on television or film in the laboratory can increase aggressive responses in the laboratory," he also concluded, "There is little convincing evidence that viewing violence on television in natural settings causes an increase in subsequent aggressiveness."⁶¹ There have been a number of critical responses to Freedman's report, the most recent being that of Huesmann, Eron, Berkowitz and Chaffee last year. Having reviewed Freedman's methodology and conclusions, these researchers found,

Freedman's conclusion of no causal effect was not justified at that time and is not justified now. It was a result of his misunderstanding of some data, his dismissal of laboratory experiments as irrelevant, his selective disregard of data contrary to his view, his overreliance on atypical field experiment data, his fluctuating criteria for evaluating positive and negative evidence, and his failure to approach the problem from an adequate theoretical perspective.⁶²

32. The vast scientific consensus surrounding the issue of television violence leaves little room for industry-sponsored arguments postulating its "cathartic value" or benign effects. Dr. Carole Lieberman, a psychologist who now heads the National Coalition on Television Violence, has written, "we readily accept that children learn the alphabet from 'Sesame Street', why can't

⁶¹J. Freedman, Effect of Television Violence on Aggressiveness, 96 Psych. Bulletin 228, 243 (1984).

⁶²L. Huesmann, et al., The Effects of Television Violence on Aggression: A Reply to a Skeptic, reprinted in (P. Suedfeld and P. Tetlock, eds 1992).

we accept that they learn the ABC's of murder and mayhem from gratuitously violent entertainment."⁶³

33. Similarly, William H. Dietz, a pediatrician and former Chairman of the American Academy of Pediatrics Task Force on Children and Television points out, "[T]housands of school-age children have learned to spell relief R-O-L-A-I-D-S . . . [and that] . . . next to Santa Claus, Ronald MacDonald is the man most widely recognized by children in the United States."⁶⁴ Dietz concludes, "If children can learn about Roloids and Ronald MacDonald from commercials that they see 3 or 4 times a day, they surely can learn from violence that they see 200 times a day."⁶⁵

34. A.M. Rosenthal, in a New York Times editorial published in May of 1992, spoke eloquently for the many Americans who are deeply concerned and frustrated by the violent images continually invading their homes. He writes:

Now we live in a cultural nuthouse, a mad world of blood, torture and murder that surrounds us in the movies and follows us home when we turn on TV "entertainment" Violence made fashionable in the cause of a buck is unworthy of people of talent. Aren't those who do that becoming ashamed of themselves? Haven't they discovered that ketchup can become blood?⁶⁶

35. It is clear that television programming has the capacity to affect viewers' attitudes regarding violence.

⁶³C. Lieberman, Violence: Merely Entertaining or Mainly Evil?, L.A. Times, May 15, 1992.

⁶⁴Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925, p. 72 (testimony of William H. Dietz, Jr., M.D., Ph.D., June 20, 1986).

⁶⁵Id.

⁶⁶A.M. Rosenthal, If Not Now, When? N.Y. Times, May 5, 1992.

It can incite, desensitize, and frighten viewers of all ages and of both genders. At the same time, there is good reason to believe that television can also educate and inform children regarding the effects and implications of violence. Due to television's important role in shaping children's attitudes toward violence, many experts believe that telecasters should assume a special responsibility to educate and inform children about violence and violent behavior. The sixth Rule contained in this Petition would require telecasters to perform this role. There is a good deal of evidence to suggest that television could effectively educate and inform children about violence. Indeed, television and other mass media have been used in other public health campaigns with great success. For example, in a public health campaign designed to prevent children from becoming smokers, scientists found,

With their appeal to young people, especially those at highest risk from smoking, mass media provide a particularly effective way to deliver smoking prevention messages. The approach developed in this study apparently tapped the power of the media to influence smoking norms among this highly impressionable age group, and prevented significant proportions of them from starting to smoke cigarettes.⁶⁷

Similarly, research evaluating the success of the Feeling Good series of television programs on health and fitness created by the Children's Television Workshop and broadcast in 1974 and 1975 found that, of the 33 behavioral goals

⁶⁷Flynn, et al. Prevention of Cigarette Smoking through Mass Media Intervention and School Programs 82 American Journal of Public Health, 834 (1992)

which were emphasized in the programs, there was strong evidence of behavioral improvement in 10 goals (meaning statistical significance as compared to a control group), partial evidence of improvement in 14 goals, and no evidence of improvement in only 9 goals.⁶⁸ This evidence from past television campaigns designed to prevent smoking, increase physical activity, and develop healthy eating habits indicates that television can be used to effectively educate, inform, and influence behaviors that contribute to a number of threats to public health. The record indicates that television has the ability to educate and inform children of the threat and implications of violent behavior as well as the dangers of prolonged exposure to televised violence. Scientific research indicates that although television has for decades contributed to the problem of violence in our society, television also may have the potential to help alleviate the problem of violence and perhaps even to help undo some of the harm it has already done to children.

IV. REGULATION OF TELEVISION VIOLENCE OUTSIDE THE UNITED STATES

36. Television violence is a matter of serious concern in many other countries, and in the international community as a whole. Sadly, the United States is often singled out

⁶⁸D.S. Solomon, Health Campaigns on Television, in Pearl, D., et al. Television and Behavior, Vol. 2, NIMH, 1982., at 315.

as the major supplier of violent programming to the rest of the world. Our success in exporting visual terror and mayhem is clearly second to none. In 1989 UNESCO published a report entitled "Violence in the Mass Media".⁶⁹ In its introduction, the Report asserts, "The evidence shows that consistent exposure to stories and scenes of violence and terror can mobilize aggressive tendencies, desensitize some and isolate others, intimidate many and trigger violent action in the few."⁷⁰

37. Many countries, including Canada, Great Britain, Finland, South Africa, Belgium, Australia, New Zealand, and France, have taken action to ameliorate the problem of television violence. In France, for example the Superior Audiovisual Council, an agency of the French government, drew up a specific directive pertaining to television violence in 1989 due to a significant increase in the broadcasting of made-for-television movies containing scenes of graphic violence deemed unsuitable for viewing by children under the age of 13.⁷¹ According to the French authorities, although television is associated with the idea of freedom of expression, it is also a medium used in a family context; therefore, it has an obligation to respect

⁶⁹G. Gerbner, Violence and Terror in the Media: UNESCO Report No. 102 on Mass Communications (1989).

⁷⁰Id. at 9.

⁷¹Superior Audiovisual Council of France, Directive of May 5, 1989 Concerning the Protection of Children and Young People in the Scheduling of Programs Broadcast by Public and Private Television Services, in D. Atkinson & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television at 49 (1991).

the necessity of protecting individuals, public order, and especially children.⁷² The Council requires the following from each program company:

not to broadcast programs intended for young people which contain scenes that could upset them;

to ensure that programs broadcast during peak viewing hours are suitable for family viewing;

not to broadcast erotic or violent films or programs between 6:00 a.m. and 10:30 p.m., nor promotions for such films or programs prior to 8:30 p.m.;

to provide appropriate signals to warn viewers of any program whose content could be offensive, particularly to young people;

not to broadcast any film or program that would offend community standards.⁷³

Additionally, dramatic programs that are considered to be for adults only must be shown with a red rectangle superimposed on the television screen that remains on-screen for the duration of the program if the program is broadcast in the early or middle evening. Films unsuitable for those under 13 years of age may be broadcast before 10:30 p.m. only if they have been cleared with the Council.⁷⁴ Finally, the Council has the authority to impose fines on companies that do not comply with its rules. In recent years, two French film companies have been fined a total of over 10 million francs for airing violent films on television before 10:30 p.m. without authorization.⁷⁵

⁷²Id.

⁷³Id. at 50.

⁷⁴Id.

⁷⁵Id.

38. Australian authorities too have acted to minimize the harmful effects of television violence. While the Australian Broadcasting Tribunal, the official regulatory body for broadcasting, has called for self-regulation, it has also recently recommended that broadcasters should comply with a code of conduct to be drawn up by the industry, with extensive input from the Tribunal and public interest groups. In its 1990 report, the Tribunal recommended that compliance with this code of conduct should be evaluated when broadcasters are attempting to renew their licenses. The recommended Code would prohibit violent acts or scenes in all television advertising, and would require broadcasters to exercise particular care with regard to the depiction of violence out of context. In addition, the Tribunal recommended that an extensive program violence classification system be enacted by the television industry, and that viewers be warned of violent content by means of appropriate symbols appearing during violent programs.⁷⁶

39. New Zealand's Broadcasting Standards Authority has developed even more explicit codes regarding the broadcast of violent images on television. The following is a partial list of elements in New Zealand's Codes of Broadcasting Practice for Radio and Television:

[A]dvertisements should not clearly portray

⁷⁶D. Atkinson, & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television 24-25 (1991) (citing Australian Broadcasting Tribunal, Television Violence in Australia: Report to the Minister for Transport and Communications (4 vols 1990.)).

violence or aggression . . .; the time of transmission is an important consideration in scheduling of programs which contain violence . . .; violence is unacceptable if it is presented in a manner which will unnecessarily disturb, alarm, or distress children during their generally accepted viewing times . . .; the gratuitous use of violence for the purposes of heightened impact is to be avoided . . .; the combination of violence and sexuality in a way designed to titillate is not sanctioned.⁷⁷

In addition, the New Zealand Codes include a program classification and scheduling policy that reads as follows:

"General" [G] programs are those which can be watched by both children and adults; they may be broadcast at any time of the day; "Parental Guidance Recommended" [PGR] indicates programs intended for adults rather than for children , although children may watch them in the company of an adult. Such programs should be broadcast between 9:00 a.m. and 4:00 p.m., and between 7:00 p.m. and 6:00 a.m.; "Adults Only" [AO] indicates programs intended for adults. Such programs are not recommended for anyone under 18, and may only be broadcast between noon and 3:00 p.m. on schooldays, and between 8:30 p.m. and 5:00 a.m."⁷⁸

40. The British Broadcasting Corporation has also developed guidelines relating to the depiction of violence on television. Without implementing a policy of censorship, the BBC has several policies which protect youthful viewers from excessive dramatic violence. Such policies include: cautionary warnings at the beginning of programs, BBC leadership in informing the public about violence on television, extensive program classifications, vigilance when purchasing programs, particularly those from the United

⁷⁷D. Atkinson, & M. Gourdeau, Summary and Analysis of Various Studies on Violence and Television 37-38 (1991)(citing New Zealand Broadcasting Standards Authority, Codes of Broadcasting Practices for Radio and Television (1989)).

⁷⁸Id.

States, and a stringent standard whereby any program broadcast before 9:00 p.m. must not have a level of violence high enough to make it unsuitable for viewing by children.⁷⁹

41. At the same time, the Broadcasting Standards Council, created in 1989, has developed a Code of Practice after taking into consideration both the views of industry interest groups and the public. While adherence to the Code is not mandatory, the British television industry is expected to exercise responsibility regarding the depiction of violence depictions. The Code provides detailed guidelines regarding dramatized violence on television:

With respect to fiction, drama programs and films, special care must be taken regarding violence particularly if the program was produced some time ago. While there may be legitimate uses of violence, its depiction must not be gratuitous. First, the context in which the violence occurs must be considered. Violence must not be exaggerated in relation to the message it is supposed to convey. Violence against women must not be a pretext for presenting scenes of sexual abuse and eroticism; nor should programs adversely affect the sensitivity of children. In this respect also, suicides and hangings should not be described explicitly. Insofar as possible, children's programs should avoid violence.⁸⁰

42. In Finland, the governmental authority responsible for broadcast regulation, the Administrative Council, promulgated policy principles in 1987 and updated them as recently as April of 1992. These policies read in part as follows:

⁷⁹Id. at 43-45(citing British Broadcasting Corp., Violence on Television: the Report of the Wyatt Committee (1987)).

⁸⁰Id. at 47-48(citing British Broadcasting Standards Council, A Code of Practice (1989)).

1. [Finnish broadcasters] will enhance their watchfulness in the selection of action series and thrillers. The display of violent behavior models must be especially avoided, as well as any calculated violence. Episodes of approved series must also be viewed separately and removed from the schedule if necessary

2. [Finnish broadcasters] will increase the amount of preliminary information given on serials and films both on TV and in the press. Program presentations must be developed into a declaration of content which will provide adequate background information. The companies should deal with problems regarding television violence in their own progress on the basis of available research material and provide information on the effects of television violence, especially to parents

3. As a guideline, [Finnish broadcasters] will not broadcast programs unsuitable for children earlier than 9:00 P.M. This fact should also be widely publicized.

4. The Administrative Council emphasizes that in program choices [Finnish broadcasters] should prefer programs which propound a positive attitude to life, human values and non-violence. The company's program policy has not hitherto been satisfactory on this count. The principles of a positive attitude and non-violence should be implemented primarily in the choice of programs for children. Programs suitable for and interesting to children should be consistently placed in the daytime slots or in the early evening⁸¹

In addition, each Finnish broadcast program must have a designated editor who may be fined, imprisoned, or required to pay compensation for allowing the transmittal of a program that violates the Administrative Council's policy principles' provisions on violent programming.⁸²

43. In Japan, the Federal Broadcast Law has required

⁸¹Minutes of Meeting of the Administrative Council of the Finnish Broadcasting Company, March 20, 1987.

⁸²Program Regulations of the Finnish Broadcasting Company, Approved by the Administrative Council, April 24, 1992.

commercial broadcasters to develop explicit program standards covering the depiction of violence and crime. As a result, the National Association of Commercial Broadcasters has published Broadcasting Standards which contain the following provisions on violence and crime:

IX. Violence

- 59. Expressions of violence, regardless of its intent, shall be handled in an unfavorable and negative light.
- 60. Expressions of violence shall be limited to a minimum.
- 61. Acts of violence -- murder, torture, rape, lynchings, and other such acts which tend to arouse the audience, as well as both mental and physical pain, should not be expressed in [a] stimulative way or in exaggeration.

X. Crime

- 62. Crime should not be portrayed in a favorable way, nor shall criminals be glorified
- 67. Caution shall be exercised in the use of firearms or swords, etc. and care shall be taken as not to arouse the feelings of imitation of means of killing or wounding.⁸³

44. In South Africa, the national Broadcasting Commission approved guidelines on the handling of violence on television in December of 1987. The guidelines include the following components:

- 8. Scheduling of Programmes ("Watershed")
 - Programme producers and directors should

⁸³Broadcasting Standards of the National Association of Commercial Broadcasters of Japan, Broadcast Administration Bureau, Ministry of Posts and Telecommunications, Tokyo, Japan.

always bear the probable time of broadcast in mind when the program content is evaluated.

- Programmes with higher "adult" content will be broadcast late in the evening from Monday to Thursday. This implies that the earlier the time of broadcast, the more suitable the content must be for children, so that they can safely watch it on their own.
- A "watershed" time (9:00 p.m.; Monday to Thursday) has been accepted for the broadcast of programmes with a higher content of violence. During weekends even greater caution will be exercised.
-
- Violent scenes will, in many cases, make the programme unsuitable for early placing

9. Guidelines for Children's and Educational Programmes

- Tiny-tots and young children do not understand the nuances of good and evil and are inclined to commit themselves to one side or the other when it comes to the solution of conflict. The use of violence as an easy way of solving conflict must be avoided. . . .
- The impression must never be created that violence does not lead to injury.
-
- Avoid dangerous situations that children could try and emulate. For example, karate-chops, knives, ropes, broken bottles
- Heroes or positive characters (in other words, those with whom children will identify) must, whenever possible, use only legal methods to attain their goals.

10. Programme Publicity

- Previews of programmes must be balanced summaries of the programmes and must not contain only scenes of action and violence.
- If a programme contains violence, the viewers must be informed.
- The broadcast time of the preview must be borne in mind so that children who may be watching will not be shocked

unnecessarily or, on the other hand,
have their curiosity aroused
unnecessarily.⁸⁴

45. In Belgium, the television industry and its regulators have responded to the threat posed by television violence by following a procedure whereby stations are to avoid broadcasting violent programming during the early evening. During other times, broadcasters must superimpose a small, continuously flashing, white, square symbol on the bottom of the television screen in order to warn viewers of a program's violent content.⁸⁵

V. THE CONSENSUS FOR IMMEDIATE REGULATORY ACTION

46. Concern over the violent content of American television has not been limited to parents, social scientists, or even politicians. Indeed, in an interview with the magazine Broadcasting in June of 1991, Commissioner James H. Quello sounded an alarm regarding the level of violence on television and its effect on American society. Quello, who has served with the FCC since 1975, and who recently became the acting chairman of the Commission, observed: "I am not a stuffed shirt, but society has gotten so desensitized. Murder is accepted as a way of life; you can't blame television entirely, but it plays a role."⁸⁶ However, Quello was also recently quoted in an

⁸⁴South African Media Task Force Guidelines (1987) (Petitioner's copy).

⁸⁵Paul Gesell, "Television's Link with Violence", Ottawa Citizen, February 13, 1993, p. B1.

⁸⁶Broadcasting, vol. 120, no. 24, (June 17, 1991) at 26.

Associated Press story that implied the Commission could not regulate televised violence without enabling legislation:

Quello said [the] Commission basically is powerless to do anything about TV violence: "All we can do is mention in a speech that Hollywood and cable and the networks are actually flooding the airwaves with too many violent programs and some of these kids are starting to imitate the violence they see on television."⁸⁷

The Petitioner submits that this position, if accurately attributed, should be reconsidered. One might ask what purpose the existence of the Commission serves if the most the Commissioners can do to protect children from harmful programming is mention the problem in speeches. The Commission's regulatory power is very broad, and lack of authority to act has not been among the reasons cited by the Commission for declining to regulate violence in television programming.⁸⁸ In 1975 the Commission, in a brief filed with the Seventh Circuit, acknowledged that it had the authority to regulate violence in television programming but nonetheless chose to trust the television industry to regulate itself.⁸⁹ The Commission adopted its laissez-faire position on televised violence in the 1970's not out of fear that it lacked the authority to regulate televised violence, but out of fear that regulating televised violence might

⁸⁷Associated Press, Quello Backs Proposed Bill to Restrict TV Violence in Children's Programs, March 12, 1993.

⁸⁸See In Re Corey, 37 F.C.C.2d 641 (1972); In Re Polite Society, 55 F.C.C.2d 810 (1975); FCC, Report on the Broadcast of Violent, Indecent, and Obscene Material, 51 F.C.C.2d 418, 420 (1975).

⁸⁹See paragraph 75 infra on the Commission's brief quoted in Writer's Guild of America, W., Inc. v. FCC, 423 F. Supp. 1064, 1156 (C.D. Cal. 1976).

violate the First Amendment.⁹⁰ However, as explained infra, First Amendment concerns no longer justify inaction. Quello himself, if accurately quoted, would seem to agree: "How far should First Amendment rights extend if they are actually harming the public interest? There's a conflict there, and I think the public interest has to prevail."⁹¹

47. Newton Minow, former chairman of the FCC and current director of the Annenberg Washington Program in Communications Policy at Northwestern University, has also been severe in his critique of excessive violence on television. In a speech given on May 9, 1991, Minow explained, "In 1961, I worried that my children would not benefit much from television, but in 1991 I worry that my children will actually be harmed by it."⁹² He continued,

I think that the most troubling change over the past 30 years is the rise in the quantity and quality of violence on television. . . . One evening as I watched, with my remote control in hand, I flipped through the channels and saw a man loading his gun on one channel, a different man aiming a gun on a second, and another man shooting a gun on a third.⁹³

48. Within the media itself, there are artists who recognize the damage that is being done by gratuitously violent films and television programming. Producer David Puttnam has spoken out on several occasions concerning the need for action. In 1989 he drew the following parallel:

⁹⁰See n. 87 supra.

⁹¹Associated Press, Quello Backs Proposed Bill to Restrict TV Violence in Children's Programs, March 12, 1993.

⁹²Broadcasting, vol. 120, no. 19 (May 13, 1991) at 34.

⁹³Id.

What we think of now as the excess of the Roman circuses, where in the end hundreds of thousands of people died, didn't start that way. . . . They started legitimately as circuses, extremely mild entertainment. But the audience demand for more and more resulted over a period of several hundred years in that form of entertainment becoming more and more bloody, more and more grotesque.⁹⁴

As for the current situation, he pleaded, "[S]omeone has to say, 'Enough' -- because this is a disaster, we are destroying ourselves."⁹⁵ With the submission of this Petition for Rulemaking, the Foundation to Improve Television is asking the Commission to respond to the majority of Americans who, with increasing concern regarding the rising level of television violence, are crying out "Enough!".

49. The findings and conclusions of acknowledged experts and organizations discussed supra lend ample support to the proposition that televised violence is harmful to young viewers, detrimental to our society, and contrary to the public interest. In the 1979 Zamora v. Columbia Broadcasting System decision, the presiding judge observed, "One day, medical or other sciences with or without the cooperation of programmers may convince the FCC or the Courts that the delicate balance of First Amendment rights should be altered to permit some additional limitations in programming."⁹⁶ It is our hope that, given the overwhelming

⁹⁴Michael Medved, Hollywood vs. America 199 (1992) (citing Bill Moyers, Bill Moyers: A World of Ideas 327 (1989) (quoting David Puttnam)).

⁹⁵Id. at 200

⁹⁶Zamora v. Columbia Broadcasting System, 480 F.Supp. 199 (S.D.Fla.1979)

evidence now before the Commission, the time for action has finally arrived.

VI. THE COMMISSION SHOULD ISSUE THE PROPOSED RULES BECAUSE REGULATING TELEVISION PROGRAMMING TO PROTECT CHILDREN FROM PROGRAMS CONTAINING AN EXCESSIVE AMOUNT OF DRAMATIZED VIOLENCE IS IN THE PUBLIC INTEREST AND THE PROPOSED RULES ARE PERMISSIBLE PROGRAMMING REGULATIONS.

50. As suggested by the now extensive evidence that televised violence is harmful to children, and by extension harmful to society, the public interest requires that the Commission regulate television programming containing an excessive amount of dramatized violence. The proposed Rules are reasonable and content-neutral time, place and manner restrictions that are narrowly drafted and essential to achieve the government's compelling interest in protecting children from harm caused by exposure to excessive dramatized violence on television. Rule 6 would additionally require educational and informational efforts from telecasters to help alleviate the harm done by television violence. The proposed Rules do not contemplate the Commission's editing proposed programs in advance of their transmittal, and they do not discriminate among programs on the basis of the messages conveyed thereby. Again, the Rules proposed by the Petitioner read as follows:

§ 73.____ Violent television programming.

1(a). Authorization, including but not